

United States Court of Federal Claims

SPACE EXPLORATION
TECHNOLOGIES, CORP.,

Plaintiff,

v.

THE UNITED STATES,

Defendant,

and

UNITED LAUNCH SERVICES, LLC.

Defendant-Intervenor.

)
) No. 14-354-C
)
) Judge: Braden
)
)
)
)
)

APPLICATION FOR ACCESS TO INFORMATION UNDER
PROTECTIVE ORDER BY EXPERT CONSULTANT

1. I, the undersigned, am a Consultant with Berkeley Research Group and hereby apply for access to protected information covered by the Protective Order issued in connection with this proceeding.

2. I have been retained by Richard J. Vacura, Morrison Forester LLP and will, under the direction and control of that attorney, assist in the representation of Space Exploration Technologies, Inc. in this proceeding.

3. I hereby certify that I am not involved in competitive decision making as discussed in *U.S. Steel Corp. v. United States*, 730 F.2d 1465 (Fed. Cir. 1984), for or on behalf of any party to this proceeding or any other firm that might gain a competitive advantage from access to the information disclosed under the protective order. Neither I nor my employer provides advice or participates in any decisions of such parties in matters involving similar or corresponding information about a competitor. This means, for example, that neither I nor my employer provides advice concerning, or participates in decisions about, marketing or advertising strategies, product research and development, product design or competitive structuring and composition of bids, offers, or proposals with respect to which the use of protected information could provide a competitive advantage.

4. My professional relationship with the party for whom I am retained in this proceeding and its personnel is strictly as a consultant on issues relevant to the proceeding. Neither I nor any member of my immediate family holds office or a management position in any company that is a party in this proceeding or in any competitor or potential competitor of a party.

5. I have attached the following information:

- a. a current resume describing my education and employment experience to date;

See Attachment A

- b. a list of all clients for whom I have performed work within the two years prior to the date of this application and a brief description of the work performed;

See Attachment B

- c. a statement of the services I am expected to perform in connection with this proceeding;

See Attachment C

- d. a description of the financial interests that I, my spouse, and/or my family has in any entity that is an interested party in this proceeding or whose protected information will be reviewed; if none, I have so stated;

See Attachment D

- e. a list identifying by name of forum, case number, date, and circumstances all instances in which I have been granted admission or been denied admission to a protective order, had a protective order admission revoked, or have been found to have violated a protective order issued by an administrative or judicial tribunal; if none, I have so stated; and

See Attachment E

- f. a list of the professional associations to which I belong, including my identification numbers.

See Attachment F

6. I have read a copy of the Protective Order issued by the court in this proceeding. I will comply in all respects with all terms and conditions of that order in handling any protected information produced in connection with the proceeding. I will not disclose any protected information to any individual who has not been admitted under the Protective Order by the court.

7. For a period of five years after the date this application is granted, I will not engage or assist in the preparation of a proposal to be submitted to any agency of the United States government for Space Launch Vehicle Services when I know or have reason to know that any party to this proceeding, or any successor entity, will be a

competitor, subcontractor, or teaming member.

8. For a period of five years after the date this application is granted, I will not engage or assist in the preparation of a proposal or submission for Space Launch Vehicle Services nor will I have any personal involvement in any such activity.

9. I acknowledge that a violation of the terms of the Protective Order may result in the imposition of such sanctions as may be deemed appropriate by the court and in possible civil and criminal liability.

* * *

By my signature, I certify that, to the best of my knowledge, the representations set forth above (including attached statements) are true and correct.



Signature

May 14, 2014
Date Executed

Ryan Byrd, Consultant
Typed Name and Title

202-480-2721 202-419-1844
Telephone & Facsimile Numbers

RByrd@brg-expert.com
E-mail Address



Signature of Attorney of Record

May 23, 2014
Date Executed

Richard J. Vacura, Attorney
Typed Name and Title

(703) 760-7764 & (703) 760-7777
Telephone & Facsimile Numbers

rvacura@mofo.com
F-mail Address

RYAN BYRD
CURRICULUM VITAE

POSITION

Mr. Byrd is a Principal with BRG in Washington, D.C. and provides consulting services in the field of government contract accounting, administration, and compliance. He has experience providing consulting, financial advisory, and audit services to companies and organizations that range from middle market to the Fortune 100. Mr. Byrd has in-depth experience with the Federal Acquisition Regulation ("FAR"), the Cost Accounting Standards ("CAS"), Office of Management and Budget ("OMB") Circulars and other Federal government procurement regulations.

EXPERIENCE

His expertise includes working with companies in a variety of industries, including professional services, aerospace, defense, manufacturing, information technology, telecommunications, biotech, higher education, health insurance and not-for-profit organizations, all of whom receive Federal funds. He has advised numerous commercial companies how to adapt practices to conform to the unique government contracting regulated environment.

Mr. Byrd has experience with all forms of government contract acquisition matters, from competitive procurements to commercial item exemptions. He assists throughout the entire life cycle of government contracts, as well as providing expert advice on a myriad of complex government contract accounting and contract administration related matters.

Mr. Byrd has extensive experience working with companies that have been suspended or debarred from Federal government contracting activities. His work entails assisting companies in designing compliance programs and corporate integrity agreements to mitigate identified government contracting issues.

He has worked with companies on merger and acquisition assignments on both the buy-side and sell-side, and provides due diligence support to identify issues/benefits associated with cost accounting, and other regulatory impacts associated with the transaction.

Mr. Byrd has assisted companies prepare and deliver voluntary disclosures, with results and findings presented in connection with settlement negotiations. Mr. Byrd has been admitted under protective orders before the Government Accountability Office and the Court of Federal Claims for bid protest matters.

Ms. Byrd performed financial statement audits of publicly-traded and private companies with KPMG. He has extensive experience preparing and analyzing financial statements and disclosures, and in applying and adhering to Generally Accepted Accounting Principles.

Attachment A

Specifically, Mr. Byrd has extensive experience in the following areas:

- Indirect Rate Development, Rate Restructuring and Preparation of Incurred Costs Submissions
- CASB Disclosure Statement Preparation
- CAS Cost Impact Preparation and CAS Compliance
- Cost Allowability
- Cost Accounting System Development and Risk Assessment
- Claims Preparation, including Change Orders, REAs and Terminations
- Compliance Assessments and Business System/ICAPS Assessments
- Internal Audit Reviews and Risk Assessments
- Internal Investigations
- DCAA Audit Support
- Internal Investigations
- Suspension and Debarment Support Services
- Accounting System Reviews
- Purchasing System Reviews
- Estimating System Reviews and TINA Compliance
- Bid Protests, including Cost Realism Reviews

EXPERT TESTIMONY AND BID PROTEST EXPERIENCE

Mr. Byrd is experienced in a variety of litigation matters. He has supported contractors and their counsel in forensic accounting analysis and preparing expert reports in matters related to alleged fraud, statutory violations, voluntary disclosures, contractor claims, and government investigations. In addition, Mr. Byrd has experience in bid protest matters related to price/cost reasonableness and realism.

Mr. Byrd has been admitted under protective orders before the Government Accountability Office for bid protest matters.

Mr. Byrd's testimony and bid protest experience includes the following:

- Bid Protest B-407230, Global Bos Solutions, LLC
- Bid Protest B-407818, PAE Government Services, Inc. (PAE)

EDUCATION AND PROFESSIONAL CERTIFICATIONS

B.S. in Accounting, University of Maryland, College Park, MD

Certified Public Accountant (CPA)

BUSINESS AND NOT-FOR-PROFIT AFFILIATIONS

InsideNGO

American Bar Association, Public Contract Law Section, Non-Attorney

Attachment B

ATTACHMENT B - CLIENT LIST FOR PREVIOUS 2 YEARS

Client Name	Scope of Work
Active Computing	Consulting on Indirect Rates
Battlespace Flight Services	Bid Protest
Booz Allen Hamilton	Incurred Cost Submission Preparation
Companion Data Services, LLC	Purchasing Systems Assessment
Computer Sciences Corporation	Consultation on Accounting Matters
Counterpart International	Consulting on Indirect Rates
Crossboundary	Compliance Assessment
FHI 360	Consulting on Indirect Rates & CAS
FCEC United Infrastructure Projects (UIProjects) JV	Analysis of Termination Claims
Land O'Lakes	Government Contract Accounting Assessment
Metropolitan Life Insurance Company (MetLife)	CAS Consultation & DCAA Assistance
MTS Systems Corporation	Compliance Assessment
Pact	CAS Consultation
PAE	Bid Protest & Termination Claim
Palantir Technologies	Incurred Cost Submission Preparation
PCORI	Consultation on Accounting Matters
Population Services International	Consulting on Indirect Rates
QinetiQ North America	CAS Consultation
SimQuest, LLC	Incurred Cost Submission Preparation
Triple Canopy	Purchasing Systems Assessment
United Infrastructure Projects (UIProjects) FZCO	Request for Equitable Adjustment
United States Pharmacopeial	Government Contract Accounting Assessment
Winrock	Consulting on Indirect Rates

Attachment C

ATTACHMENT C – SERVICES TO BE PERFORMED

I have been retained to assist outside counsel for Space Exploration Technologies, Inc. with respect to bid protest proceedings. Assistance is expected to include the following:

- Review and analysis of proposal and evaluation materials and other documents related to the contract;
- Provide advice and conclusions to outside legal counsel in connection with proposal and evaluation issues related to cost.
- We expect to review and provide counsel with analysis of the offerors' proposals and the government's evaluation of those proposals and its source selection decision.

Attachment D

ATTACHMENT D – FINANCIAL INTERESTS

A description of the financial interests that I, my spouse, and/or my family has in any entity that is an interested party in this proceeding or whose protected information will be reviewed; if none, I have so stated

NONE

Attachment E

ATTACHMENT E - PROTECTIVE ORDER LIST

- Bid Protest B-407230, Global Bos Solutions, LLC
- Bid Protest B-407818, PAE Government Services, Inc. (PAE)

No protective order admissions denied, revoked, or violated.

Attachment F

ATTACHMENT F – PROFESSIONAL ASSOCIATIONS

Certified Public Accountant, Maryland and Virginia
American Institute of Certified Public Accountants
Greater Washington Society of CPAs
National Defense Industrial Association
Professional Services Council